



MIKE PENCE, *Governor*
JAMAL L. SMITH, *Executive Director*

ICRC NO.: HOfs14070543
[REDACTED]

JAMAL L. SMITH, in his official capacity
as EXECUTIVE DIRECTOR OF THE INDIANA CIVIL
RIGHTS COMMISSION
Complainant,

v,

JOHN AND REBECCA POWERS
Respondents,

NOTICE OF FINDING AND
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following Finding with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 2-6-6(a). Therefore, the Deputy Director also issues the Charge in accordance with 910 IAC 2-6-6 (b).

On or about July 10, 2014, [REDACTED] ("Complainant") filed a Complaint with the Commission against John and Rebecca Powers ("Respondents") alleging unlawful discriminatory housing practices on the basis of familial status in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5 *et seq.*) the Indiana Civil Rights Law (Ind. Code § 22-9 *et seq.*) [REDACTED]
[REDACTED] As such, the Commission has jurisdiction over the parties and the subject matter of this Complaint.

An investigation has been completed. All parties have been interviewed and have had an opportunity to submit evidence. Based on the final investigative report and a full review of the relevant files and records, the Deputy Director now finds the following:

The issue before the Commission is whether Respondent engaged in discriminatory advertising and subjected Complainant to discriminatory statements.¹ By way of background, Complainant responded to an ad placed by Respondents at Complainant's workplace. The listing states as

¹ Complainant also asserts that the Respondents refused to rent to him because of his familial status. As it is undisputed that Respondents own two properties and reside in one of the properties, they are exempt from Fair Housing Laws. See Ind. Code § 22-9.5-3-1(a)(1)(A).



follows: “Lakefront house on Goose Lake—2 bedrooms; 1 bath; approx. 1000 sq. ft.—perfect for couple; no children please. \$700 + Security Deposit.” (emphasis added). On or about June 9, 2014, Complainant called Mr. Powers, inquired about the home, and mentioned that it was for himself and his fiancé who was expecting a child. Complainant asserts that Mr. Powers told him that the home was not a “family style home” and that he “did not rent to people with children.”

Despite Respondents’ assertions, there is sufficient evidence to show that a discriminatory practice occurred in this instance. While Respondents are exempt from the Fair Housing Act on the basis of discriminatory refusal to rent because they own fewer than four properties, the applicable laws clearly provide no such exemption for discriminatory advertising or statements. Specifically, the law prohibits the “publication, posting, or mailing of a notice, a statement, or an advertisement prohibited under Ind. Code § 22-9.5-5-2.” As Respondents’ posting and statements clearly shows a preference for renters without children, the posting and statements constitute unlawful discriminatory on the basis of familial status. As such and based upon the aforementioned, reasonable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondents, Complainant, or an aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondents, and Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6.

An election form is enclosed and it must be completed by Complainant as well as Respondents and returned to the Commission within twenty (20) days after the receipt of this Notice of Finding. If the election form is not timely returned, the matters will be set for hearing before the agency’s Administrative Law Judge.

October 3, 2014

Date

Jamal L. Smith
Executive Director
Indiana Civil Rights Commission